

ORIGINAL FILED
SEP 17 1997
LOS ANGELES
SUPERIOR COURT

DANIEL E. LUNGREN
Attorney General
PETER H. KAUFMAN
Supervising Deputy Attorney General
State Bar No. 52053
110 West A St., Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2020
Fax: (619) 645-2012
Attorneys for Respondents
State Coastal Conservancy and Department of General Services

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CENTRAL DISTRICT

FRANK MANCUSO, SR., an individual,

Petitioner,

v.

CALIFORNIA STATE COASTAL
CONSERVANCY, an agency of the State of
California, CALIFORNIA STATE COASTAL
CONSERVANCY BOARD, the governing body of
the California State Coastal Conservancy, the
CALIFORNIA DEPARTMENT OF GENERAL
SERVICES, an agency of the State of California,
THE MOUNTAINS RECREATION AND
CONSERVATION AUTHORITY, an agency of the
State of California and DOES 1 through 100,

Respondents.

BS 040197
(Petition assigned to Judge
O'Brien)

STATE COASTAL
CONSERVANCY,
DEPARTMENT OF
GENERAL SERVICES AND
MOUNTAIN RECREATION
AND CONSERVATION
AUTHORITY REQUEST FOR
JUDICIAL NOTICE
PURSUANT TO EVIDENCE
CODE SECTION 452(C) OF
THE CONSERVANCY'S
MINUTES AND ADOPTED
STAFF RECOMMENDATION
OF JANUARY 23, 1997 AND
MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT THEREOF

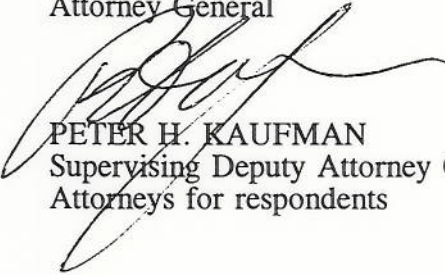
Hearing: Sept. 23, 1997
Time: 9:30 A.M.
Dept.: 85

The State Coastal Conservancy (hereinafter "Conservancy"), the Department of
General Services (hereinafter "Department") and the Mountains Recreation and
Conservation Authority (hereinafter "MRCA") hereby request that this Court take judicial
notice pursuant to Evidence Code section 452(c) of the minutes of the Conservancy's

1 January 23, 1997 meeting and the staff report and recommendation adopted by the
2 Conservancy at that meeting which are attached hereto and incorporated by reference
3 herein as Exhibit A.

4 DATED: 9/15/97
5

6 DANIEL E. LUNGREN
7 Attorney General

8 
9 PETER H. KAUFMAN
10 Supervising Deputy Attorney General
11 Attorneys for respondents
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

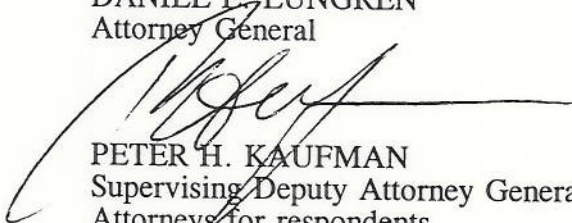
2 The Conservancy, the Department and the MRCA have asked this Court to take
3 judicial notice pursuant to Evidence Code section 452(c) of the minutes of the
4 Conservancy's January 23, 1997 meeting as well as the staff report and recommendation
5 adopted at that meeting with respect to the data collection contract at issue in this
6 proceeding.

7 The minutes of a government agency meeting were held to be a proper subject
8 of judicial notice in California Grape and Tree Fruit League v. Industrial Welfare
9 Commission (1969) 74 Cal.App.2d 692. Likewise, the records and files of an
10 administrative board were determined to be an appropriate subject of judicial notice in
11 Hogen v. Valley Hosp. (1983) 147 Cal.App.3d 119. As the accompanying certification
12 attests, these documents are part of the Conservancy's records and files.

13 For these reasons, the Court is hereby respectfully requested to take judicial
14 notice of the documents attached hereto as Exhibit A.

15 DATED: 9/15/97
16

17 DANIEL E. LUNGREN
18 Attorney General

19 
20 PETER H. KAUFMAN
21 Supervising Deputy Attorney General
22 Attorneys for respondents
23
24
25
26
27
28

**STATE COASTAL CONSERVANCY
PUBLIC MEETING MINUTES**

January 23, 1997
9:30 a.m.

Port Commission Room
Port of San Francisco
Ferry Building, Suite 3100
San Francisco, California

MEMBERS PRESENT: Penny Allen (Public Member) (Chair)
Rusty Arcias (Chair, California Coastal Commission)
Margaret Azevedo (Public Member)
Craig Denisoff (Designated Representative, Resources
Agency)
Robert C. Kirkwood (Public Member)
Fred Klass (Designated Representative, Department of
Finance)
Marcus E. Powers (Public Member)

OVERSIGHT MEMBERS

PRESENT: There were no oversight members present.

OTHERS PRESENT: Michael L. Fischer, Executive Officer
Pat Peterson, Deputy Attorney General

Mrs. Allen welcomed Rusty Arcias, the new Chairman of the Coastal Commission, to the Conservancy Board.

APPROVAL OF MINUTES: The Minutes of the December 5, 1996 Public Meeting was approved without change.

DEPUTY ATTORNEY

GENERAL'S REPORT: There was no Deputy Attorney General's report.

EXECUTIVE

OFFICER'S REPORT: Mr. Fischer presented the 1997-98 Governor's Budget and reported on other legislative matters in conjunction with Neal Fishman of the Conservancy staff and John Woodbury of the Bay Area Open Space Council.

Mr. Fischer then presented a report on the status of the Bolsa Chica wetlands in conjunction with Melanie Denninger of the Conservancy staff.

Steve Horn, Deputy Executive Officer, presented a report on Habitat Conservation Fund (HCF) Priorities, and Mr. Fischer

noted that a HCF Audit Report would be issued within the next few months.

Mr. Kirkwood moved adoption of staff's resolution regarding HCF Priorities. Mrs. Azevedo seconded.

Resolution-

"The Coastal Conservancy accepts and concurs in the report of the Executive Officer, updated on January 23, 1997, regarding Conservancy priorities for expenditures from the Habitat Conservation Fund through fiscal year 1997-98."

Motion passed by a vote of 7-0.

The Conservancy then discussed its 1997 schedule of meetings, and agreed on a tentative schedule. The next meeting will be in San Francisco on February 20. The March 20 meeting will be held in San Diego, April 24 and August 21 in Sacramento, and December 4 in Los Angeles. No location was chosen for the May 22, June 26, September 18, and October 16 meetings.

Finally, Mr. Fischer reported on the impact of a landslide at Gorda, on Highway 1 in Big Sur, on Conservancy property.

**SOUTHERN CALIFORNIA
COASTAL WETLANDS
CLEARINGHOUSE:**

Reed Holderman of the Conservancy staff presented the Staff Recommendation.

Mr. Powers moved adoption of staff's resolution. Mr. Kirkwood seconded.

Resolution-

"The Coastal Conservancy hereby authorizes the acceptance of two hundred fifty thousand dollars (\$250,000) from the California Department of Fish and Game and the disbursement of these funds as follows to establish the Southern California Coastal Wetlands Clearinghouse, as described in Exhibit 4 in the accompanying staff recommendation:

1. Disbursement of an amount not to exceed sixty-five thousand dollars (\$65,000) to the Romberg Tiburon Centers at San Francisco State University for convening the scientific panel and preparing conceptual wetland restoration plans, and ten thousand dollars (\$10,000) to the University of California at Santa Barbara to conduct a series of public forums on the Southern California Wetlands Clearinghouse; and
2. Disbursement of an amount not to exceed one hundred seventy-five thousand dollars (\$175,000) for Conservancy staff costs incurred in implementing the Clearinghouse

scope of work described in Exhibit 4 to the accompanying staff recommendation."

Findings-

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The acceptance of funds from the California Department of Fish and Game to establish the Southern California Coastal Wetlands Clearinghouse is consistent with the authority of the Conservancy to accept grant funds under Public Resources Code Section 31104;
2. The disbursement of funds is consistent with Sections 31253 and 31254, which enable the Conservancy to provide up to the total cost of any coastal resource enhancement project and to request the assistance of public and private groups to assist in the development of criteria and guidelines for the determination of priority coastal resource enhancement projects;
3. The proposed Southern California Coastal Wetlands Clearinghouse project is consistent with the purposes and objectives of Public Resources Code Sections 31251-31270 because it facilitates the identification, prioritization, planning and implementation of wetland restoration opportunities in southern California's coastal zone; and
4. The proposed project is also consistent with the Conservancy's Coastal Resource Enhancement Program Guidelines."

Motion passed by a vote of 6-0, with Mr. Areias abstaining.

SAN ELIJO LAGOON/ HOLMWOOD CANYON GRANT REPAYMENT:

Marc Beyeler of the Conservancy staff presented the Staff Recommendation.

Mrs. Azevedo moved adoption of staff's resolution. Mr. Kirkwood seconded.

Mr. Areias moved that action on this item be postponed to the March Board Meeting. Mr. Powers seconded.

Motion postponing action passed by a vote of 7-0.

CLOSED SESSION: The Conservancy took a brief recess, and then returned in Closed Session to consider Mancuso v. State Coastal Conservancy, Los Angeles Superior Court No. BS040197. Session was

closed to the public pursuant to Government Code Section 11126(q).

Legal counsel requested guidance regarding settlement.

Mr. Kirkwood moved adoption of staff's resolution. Mrs. Azevedo seconded.

Motion passed by a vote of 6-1, with Mr. Powers voting no.

**CHIATE/WILDMAN EASEMENT
DATA COLLECTION AND
RESOURCE EVALUATION:**

Marc Beyeler and James Pierce of the Conservancy staff presented the Staff Recommendation.

Speaking in favor of the Staff Recommendation: Allan J. Ab-shez, representing Frank Mancuso.

Mrs. Azevedo moved adoption of staff's resolution. Mr. Kirk-wood seconded.

Resolution-

"The Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed thirty-eight thousand five hundred dollars (\$38,500) to retain technical specialists to assist staff in the collection of data for construction and design of the vertical and parking easement at 27900-10 Pacific Coast Highway (known as the Chiate/Wildman easements), and amends its September 20, 1995 resolution to delete the operation and maintenance of the Chiate/Wildman easements from its interagency agreement with the MRCA [Mountains Recreation and Conservation Authority]."

Finding-

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that the data collection and resource evaluation is consistent with the purposes and criteria set forth in Division 21 of the Public Resources Code, specifically, in Sections 31400, 31400.3, 31404 and 31405; with the Conservancy's Access Standards and Program Criteria; and with Coastal Act policies and objectives."

Motion passed by a vote of 6-0, with Mr. Powers abstaining.

STRATEGIC PLAN: The Conservancy discussed the elements of its Strategic Plan, and agreed to continue the discussion in more detail at its February 20, 1997 meeting. Mr. Powers left the meeting near the end of this discussion.

LOUIS CALCAGNO: Mrs. Allen presented a resolution of commendation for Louis Calcagno.

Mr. Kirkwood moved adoption of Mrs. Allen's resolution. Mrs. Azevedo seconded.

Resolution-

"In recognition of the services of Louis Calcagno as a member of the State Coastal Conservancy, the Conservancy hereby adopts the following resolution:

WHEREAS, Louis Calcagno will always be remembered on the Central Coast as a founding member of the Elkhorn Slough Foundation and of the Monterey County Agricultural and Historic Land Conservancy; and

WHEREAS, Louis has been a steadfast supporter of California agriculture, and has promoted agricultural practices that are compatible with the natural environment; and

WHEREAS, as a dairy farmer, Louis provides the people of California with milk and milk products, he is a commendable steward of the land, and he is good to his animals; and

WHEREAS, Louis was appointed to the Coastal Commission by Governor Pete Wilson on October 13, 1992; and

WHEREAS, the Commission, recognizing a person of wisdom and leadership, elected him to chair that body on July 10, 1996; and

WHEREAS, by virtue of his office as Chair of the Coastal Commission, Louis served as a Member of the Conservancy for all too short a time; and

WHEREAS, the winds of time and politics changed, thus ushering him out of office as both Chairman of the Coastal Commission and Conservancy Member on January 8, 1997;

THEREFORE, BE IT NOW RESOLVED that the California State Coastal Conservancy hereby recognizes, with warmth and appreciation, the contribution of Louis Calcagno by this resolution and accompanying Conservancy plaque."

Motion passed by a vote of 7-0.

CLOSED SESSION: The Board adjourned to Closed Session to discuss Joey Jacobs v. TPL et al., San Mateo County Superior Court No. 340634, in re Paul L. Gould, Inc., U.S. Bankruptcy Court, N.D. Cal #96-55609; State v. Union Oil, San Luis Obispo County Superior Court No. CV 075194; and potential litigation matters regarding the Bolsa Chica wetlands. The session was closed pursuant to Gov. Code Section 11126(e).

BOARD MEMBER

COMMENTS: The Board discussed a recent matter concerning the Executive Officer and Coastal Commission civil service interviews.

PUBLIC COMMENT: There was no other comment.

ADJOURNMENT: The meeting was adjourned.

TDS

COASTAL CONSERVANCY

Project Summary
January 23, 1997

CHIATE/WILDMAN EASEMENT DATA COLLECTION AND RESOURCE EVALUATION

File No. 88-046

Project Managers: Marc Beyeler and James Pierce

RECOMMENDED ACTION: Authorization to (1) disburse funds to retain technical specialists to collect data and evaluate the resources on the Chiate/Wildman access easement, and the adjacent parking easement, and (2) remove the Chiate/Wildman Easement from the scope of the inter-agency agreement between the Coastal Conservancy and the Mountains Recreation and Conservation Authority (MRCA) to operate and maintain certain vertical access easements.

LOCATION: 27900-10 Pacific Coast Highway, Malibu, Los Angeles County (Exhibit A)

PROGRAM CATEGORY: Public Access and Dedications and Donations

ESTIMATED COST: up to \$38,500

PROJECT SUMMARY: If the first aspect of this authorization is approved, staff will be able to further analyze construction feasibility of a Conservancy-held vertical access easement and accompanying parking easement at Escondido Beach, Malibu. Before staff can evaluate the relative merit of any alternatives to the Chiate/Wildman site or return to the Conservancy with a recommendation to construct the Chiate/Wildman access easement, staff needs to answer the following questions about the Chiate/Wildman vertical and parking easements: are the easements buildable; if they are, how would they be built; and how much will they cost to construct? These questions will be answered by evaluating site conditions and constraints, considering various design alternatives, and estimating construction costs.

This analysis will present staff with an accurate cost estimate which is needed in order to determine if the Chiate/Wildman easement can be built with the specifically designated funds (known as the "Black Tor" funds), which the Conservancy holds in a special deposit account. In addition, staff needs to examine design alternatives for the vertical easement in order to assess the environmental impacts created by an access construction project at the Chiate/Wildman site.

The second aspect of this staff recommendation seeks authorization to remove the Chiate/Wildman Easement from the scope of the interagency Management Agreement with the MRCA, previously authorized by the Conservancy on September 20, 1995.

Removing the Chiate/Wildman Easement from the scope of the Management Agreement is appropriate because the easement remains unopened until the data collection and resource evaluation work described above has been completed. In addition, the property owner contends that he did not receive adequate notice of the 1995 authorization. Staff and counsel disagree with the property owner's contention; however, staff recommends removing the management of this easement from the Conservancy's management agreement with the MRCA.

COASTAL CONSERVANCY

Staff Recommendation
January 23, 1997

CHIATE/WILDMAN EASEMENT DATA COLLECTION AND RESOURCE EVALUATION

File No. 88-046

Project Managers: Marc Beyeler and James Pierce

**STAFF
RECOMMENDATION:** Staff recommends that the State Coastal Conservancy adopt the following Resolution, pursuant to Sections 31400, 31400.3, 31404 and 31405 of the Public Resources Code:

"The Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed thirty-eight thousand five hundred dollars (\$38,500) to retain technical specialists to assist staff in the collection of data for construction and design of the vertical and parking easement at 27900-10 Pacific Coast Highway (known as the Chiate/Wildman easements), and amends its September 20, 1995 resolution to delete the operation and maintenance of the Chiate/Wildman easements from its interagency agreement with the MRCA."

Staff further recommends that the Conservancy adopt the following finding:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that the data collection and resource evaluation is consistent with the purposes and criteria set forth in Division 21 of the Public Resources Code, specifically, in Sections 31400, 31400.3, 31404 and 31405; with the Conservancy's Access Standards and Program Criteria; and with Coastal Act policies and objectives."

STAFF DISCUSSION:

Project Description: If the first aspect of this authorization is approved, staff will be able to use the expertise of engineers and site design consultants to collect data and analyze construction feasibility of a Conservancy-held vertical access easement and its accompanying easement for parking at Escondido Beach, Malibu. The feasibility study will answer the following questions: are the easements buildable; if they are, how would we build it; and how much will construction cost? The study will do this by evaluating site conditions and constraints, considering various design alternatives, and estimating construction costs. The cost is not expected to exceed than \$38,500.

Until this study is completed, staff will not be able to accurately evaluate the costs and impacts associated with constructing the access improvements to the Chiate/Wildman vertical and parking easements. This lack of information makes it difficult to recommend constructing the improvements or to evaluate relative merit of any alternatives to providing for public access from the Chiate/Wildman site.

Staff is also recommending the deletion of the Chiate/Wildman easement from the Conservancy's previous authorization for management and operation of the easement by the Mountains Recreation and Conservation Authority (MRCA). In 1995 the MRCA, a joint powers agency made up of the Santa Monica Mountains Conservancy and the Conejo Recreation and Park District, offered to operate and maintain the Chiate/Wildman easement, once constructed, as well as two other access easements along Escondido Beach. The Conservancy authorized entering into a management agreement with the MRCA for these accessways on September 20, 1995 (Exhibit B). Because the Chiate/Wildman Easement is not currently open, and because the owners of the property over which the easement lies have raised the issue of whether they received proper notice of the Conservancy's intention to have the MRCA manage this easement, staff believes that it is appropriate for the easement to be removed from the scope of the management agreement with the MRCA at this time.

Project Financing: The data collection study would be funded by a special deposit account, set aside pursuant to a Coastal Commission permit condition for the purpose of building the Chiate/Wildman easements. Approximately \$412,000 remains in the account, \$3,200 having been spent on the topographical survey of the vertical easement. One of the key parts of the construction data collection study is the cost estimate which will inform the Conservancy whether or not it can construct the Chiate/Wildman easements for the amount available in the special deposit account.

Site Description: The Chiate/Wildman vertical easement (27900-10 Pacific Coast Highway) runs through an existing gate, driveway, and tennis court, past two houses, and then along the walls of a steep ravine. The parking easement is over the eastern 25 feet of the property. Staff estimates that the parking easement, if developed, would hold approximately eight cars due to various constraints, such as an overlapping Caltrans easement, a ravine, and the necessity to allow the fee owner access to his property. The topography of the parking and vertical easements will likely make construction of the easements challenging. This underscores the importance of thorough construction data collection before recommending construction.

Project History: The Conservancy accepted the vertical easement in 1982 and the parking easement in 1985.

In 1990, as a result of a Coastal Commission permit action, the Conservancy received funds specifically designated to construct the Chiate/Wildman vertical easement or an alternative approved by the Commission's Executive Director and the Conservancy's Executive Officer. Approximately \$412,000 is available for construction of the Chiate/Wildman easement.

**CONSISTENCY WITH
CONSERVANCY'S
ENABLING LEGISLATION:**

The proposed authorization for data collection and resource evaluation is recommended pursuant to Chapter 9 of Division 21 of the Public Resources Code.

Public Resources Code Section 31400 states that the Conservancy should have a "principal role in the implementation of a system of public accessways" to guarantee the public's right to access and enjoyment of the coast. The first step in implementing the Chiate/Wildman accessway, one part of a system of accessways to the Malibu coast, is to complete a feasibility analysis.

Under Public Resources Code 31400.3, the Conservancy may provide such assistance as is required to aid in the establishment of a system of public accessways. This feasibility analysis is necessary before the Conservancy can establish the public access improvements to the Chiate/Wildman easement.

Section 31404 allows the Conservancy to take title to properties for public access but does not require the Conservancy to open such properties to public use if "the benefits of public use would be outweighed by the costs of development and maintenance." This feasibility study will enable Conservancy staff to make this evaluation by estimating the costs of access development.

Section 31405 states that the Conservancy may collect fees for the purpose of providing public access and use such funds for development of coastal accessways. The Conservancy has received funds specifically designated for the development of access improvements at the Chiate/Wildman easement and will use a portion of these funds for the feasibility analysis. The construction feasibility analysis is necessary if the Conservancy is to develop the Chiate/Wildman accessway for public use.

**CONSISTENCY WITH
CONSERVANCY'S
PROGRAM GUIDELINES:**

The project is consistent with the Conservancy's Access Program Guidelines in the following respects:

Urgency: Locating an operation and management entity to take responsibilities for new accessways in Malibu has been quite difficult. The MRCA's offer to operate and maintain the Chiate/Wildman easement represents an unique opportunity that should be taken advantage of as soon as possible. However, the Conservancy needs to first evaluate if and how it would construct the

necessary physical improvements to the easement (the purpose of the analysis) and then, actually build the improvements before the MRCA can assume management responsibilities.

Consistency with Coastal Access Standards: The Conservancy's coastal access standards set forth various criteria for the development of coastal accessways, such as the accessways should safely accommodate public use, minimize the alteration of natural land forms, provide site amenities, *etc.* One of the purposes of this study is to determine how to construct the Chiate/Wildman accessway in a manner consistent with the Coastal Access Standards.

Cost-Effectiveness: This analysis will determine the most cost-effective way to construct the improvements at the Chiate/Wildman easement.

Local Coastal Program Consistency: Malibu does not have a certified Local Coastal Program at this time. The approved County Land Use Plan, a document used to guide coastal planning until the LCP is certified, recognizes Escondido Beach as a priority access area and calls for accessways at every 2,000 feet along the coast. Construction of the Chiate/Wildman vertical easement is consistent with the LUP because the easement is approximately 2,000 feet from either of the nearest accessways: the privately-owned Paradise Cove beach and the Seacliff accessway at 27420-28 Pacific Coast Highway. This feasibility analysis is part of the usual pre-project evaluation undertaken by the Conservancy before developing an accessway.

**CONSISTENCY WITH
COASTAL ACT:**

This feasibility study is consistent with the policies and goals of the Coastal Act. Section 30210 of the Coastal Act states that "maximum access . . . shall be provided for all the people." Construction of the Chiate/Wildman accessway improvements would be consistent with this section since the Conservancy would be utilizing Offers-to-Dedicate Public Access to provide the maximum access possible to the Escondido Beach area. Because Offers-to-Dedicate were required by the Coastal Commission as conditions of permitted development, the construction of these vertical and parking easements would implement specific findings of the Commission regarding the need for public access at this location. The feasibility study will assist the Conservancy in determining if and how it can fulfill this goal of maximizing access by constructing the Chiate/Wildman accessway.

**COMPLIANCE
WITH CEQA:**

The proposed data collection and resource evaluation will not result in a serious or major disturbance to an environmental resource and, thus, is categorically exempt from CEQA review pursuant to 14 California Code of Regulations Section 15306.

WAP NG 120 N 049
CCUNFY ZH01022R

Street Parking along Pacific Coast Highway Escondido Beach, Malibu

Map A

~~Chiate/Wildman vertical~~

Parking Allowed
approx. 150 cars

No Parking
approx. 176 yds.

Upcoast
(West)

Paradise Cove
(private, \$15 admission)

match with dashed line on Map B.

EC

PI

014

Exhibit B

STATE COASTAL CONSERVANCY

Project Summary
September 20, 1995

MALIBU ACCESS: ESCONDIDO BEACH

File No.: 95-010
Project Manager: Brenda Buxton

RECOMMENDED ACTION: Authorization to (1) accept two vertical access easements, two lateral access easements, and one parking easement, (2) enter into a 20-year interagency agreement with the Mountains Recreation and Conservation Authority (MRCA) to operate and maintain three vertical access easements and two parking easements, and (3) disburse \$82,000 to the Mountains Recreation and Conservation Authority for operation and management.

LOCATION: 27398-400, 27420-28, 27450, and 27900-10 Pacific Coast Highway, Escondido Beach, Malibu, Los Angeles County

PROGRAM CATEGORY: Public Access

COST ESTIMATE: Coastal Commission Malibu Beach Access Fund: \$82,000

PROJECT SUMMARY: If approved, this project would open up three new accessways along Escondido Beach in Malibu and require no Conservancy bond funds.

Despite the existence of well-known beaches, such as Zuma and Topanga, many miles of the Malibu coast are inaccessible to the public. Along some sections of the coast, development precludes beach access, while in other areas the beaches suffer from extensive erosion, leaving little space for public access between houses and the ocean. This lack of coastal access could be ameliorated by the acceptance and opening of Malibu's 12 vertical Offers-to-Dedicate (OTDs), but to date, most vertical OTDs are unaccepted and closed due to the lack of a management entity capable of operating and maintaining them. The Los Angeles County Department of Beaches and Harbors and the State Department of Parks and Recreation are unwilling to operate smaller, non-revenue-generating accessways such as these. The City of Malibu currently is writing its Local Coastal Plan and has not yet developed any access policies. The City has not assumed operation and maintenance responsibilities for any dedicated accessways at this time.

The Coastal Conservancy has been working to open up key access points along the Malibu coast since 1979. Escondido Beach has long been a priority because it is a wide sandy beach with public access available only at the extreme ends of the mile-long beach: the privately-owned Paradise Cove (with a \$15 fee for day-use parking) at the western end of the beach and Los Angeles

County's Escondido Creek accessway at the eastern end (Exhibit A). In addition, this beach has three dedicated vertical accessways that, if opened, would provide public access; two are unaccepted, but constructed, and one has been accepted by the Conservancy, but not yet constructed. Until now, the Conservancy has been unable to open up these important beach access points due to the lack of a management agency.

Recently, however, the Mountains Recreation and Conservation Authority (MRCA) has offered to assume responsibility for operation and maintenance of the accessways on Escondido Beach. MRCA is a joint powers agency consisting of the Santa Monica Mountains Conservancy and the Conejo Recreation and Park District. The MRCA operates rural and urban parks in the Malibu area and the San Fernando Valley and has construction and maintenance crews as well as rangers on its staff. The MRCA prefers to focus on Escondido Beach easements since it maintains facilities along the nearby Escondido Falls trail. At this time, the MRCA lacks the resources to take on management responsibilities for other accessways in Malibu. Additionally, the MRCA is not willing to accept the OTDs. For this reason, Conservancy staff recommends that the Conservancy accept the outstanding OTDs, enter into a 20-year interagency agreement with the MRCA for their management, and disburse \$82,000 to the MRCA for at least the first five years of operation and maintenance costs.

The local community has several concerns regarding management and pedestrian safety which the staff of the Conservancy and the MRCA have attempted to address. In order to allay some of the concerns about privacy and safety, Conservancy and MRCA staff have designed a maintenance program that will include locking the gates at night, regular inspections of the stairs, ranger services available on an on-call basis, and weekly trash pick up. Local residents are also concerned about the possibility of beachgoers parking on the inland side of Pacific Coast Highway and crossing this busy highway. However, as is discussed in the project description, there is extensive oceanside parking adjacent to or near the accessways which will minimize the necessity to cross the highway.

In the past, the Conservancy has sought to increase and improve access by assisting with the costs of acquisition of property and/or construction of stairs, trails, and other facilities. At Escondido Beach, acquisition and construction costs are not an issue. The accessways are already dedicated for public use; two of the accessways are built; and the third accessway, owned by the Conservancy, could be constructed with funds set aside for this purpose in a designated account. Furthermore, the Coastal Commission's Malibu Beach Access Fund could be used to cover the expenses of an operation and maintenance entity. In Malibu, the main obstacle to creating new access has been the lack of a management agency, not the lack of funds or property interests. The Conservancy can best carry out its mandate to implement a system of public coastal accessways by enabling a local entity, in this case the MRCA, to assume management responsibilities.

STATE COASTAL CONSERVANCY

Staff Recommendation
September 20, 1995

MALIBU ACCESS: ESCONDIDO BEACH

File No.: 95-010
Project Manager: Brenda Buxton

STAFF
RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31104.1 and 31400 *et seq.* of the Public Resources Code:

"The State Coastal Conservancy hereby authorizes the acceptance of Irrevocable Offers-to-Dedicate Public Access recorded as Document Nos. 86-435660, 83-1152650, 83-1152648, 84-426207 and 78-1378614 in the Official Records of Los Angeles County to satisfy conditions of coastal development permits, subject to the condition that the parking easement at 27420-28 Pacific Coast Highway (Shane/Seacliff), offered as Document No. 83-1152648 in the Official Records of Los Angeles County, shall be constructed pursuant to the stipulated settlement agreement between the property owners and the Coastal Commission prior to Conservancy acceptance of this easement; and

The Conservancy further authorizes its Executive Officer to enter into a 20-year interagency agreement with the Mountains Recreation and Conservation Authority (the "MRCA") for the operation and maintenance of the vertical, lateral and parking easements offered as Document Nos. 86-435660, 83-1152650, 83-1152648, 84-426207, 78-1378614, 81-1259943 and 83-108580 in the Official Records of Los Angeles County ("the easements") subject to the following conditions:

1. Prior to opening each easement to the public, the MRCA shall submit for the review and approval of the Executive Officer of the Conservancy a management plan which shall specify the MRCA's responsibilities for that easement including, but not limited to:
 - a. inspecting the easement at least once a week;
 - b. keeping the easement free of trash;
 - c. erecting and maintaining public access signs which specify the terms of use and acknowledge the Coastal Conservancy as the holder of the easements, the MRCA as the management agency, and the Coastal Commission as the funder;

- d. ensuring that the easement is open during designated daylight hours; and
 - e. enforcing the conditions of use of the easement as described in the relevant Offers-to-Dedicate, including the provision that the beach parking areas shall be used only for beachgoers.
2. The vertical and parking easement at 27900-10 Pacific Coast Highway (Chiate/Wildman), offered as Document Nos. 80-1161952, 81-1259943, 82-11159 and 83-108580 in the Official Records of Los Angeles County, or at an alternative location approved by the Conservancy and the Coastal Commission, shall be opened to the public under MRCA management only after all necessary construction has been completed pursuant to authorization of the Conservancy.

The Conservancy also authorizes its Executive Officer to amend the Conservancy's Memorandum of Understanding with the California Coastal Commission, attached to the accompanying staff recommendation as Exhibit B, to provide for the use of up to eighty-two thousand dollars (\$82,000) for management of these easements, and authorizes the disbursement of these funds to the MRCA for the operation and maintenance of the easement for a minimum of five years."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. Acceptance of the Irrevocable Offers to Dedicate Public Access is consistent with the Conservancy's mandate and authority under Public Resources Code Section 31104.1 to serve as a repository for interests in lands whose reservation is required to meet the policies and objectives of the Coastal Act; and
2. The proposed agreement with the MRCA for operation and maintenance of Escondido Beach easements is consistent with the purposes and objectives of Sections 31400 *et seq.* of the Public Resources Code, and with the Conservancy's Access Standards and Program Criteria."

STAFF DISCUSSION:

Project Description: Upon approval of this recommendation, the Conservancy will accept the outstanding vertical and lateral access and parking easements in the Escondido Beach area of Malibu and then enter into an interagency agreement with the Mountains Recreation and Conservation Authority (the "MRCA") to operate and maintain

these easements as well as a vertical easement already held by the Conservancy.

Operation and Maintenance

In order to address concerns presented by the local community as much as possible, Conservancy and MRCA staff have outlined a maintenance program which will include 1) inspecting the accessways for safety at least once a week; 2) weekly trash pick up; 3) maintaining signs at each easement, as appropriate, which specify terms of use and acknowledge the Coastal Conservancy as the holder of the easements, the MRCA as the manager, and the Coastal Commission as funder; 4) ensuring that the accessways are open during daylight hours; 5) performing routine repairs; and 6) enforcing the conditions of use of the accessways, including the provision that the parking accessways are to be used for beach parking only. Furthermore, the MRCA will also provide ranger services that will provide a quick response to emergency situations and will lock the accessways at night in order to assure the privacy of the local residents.

There are three vertical accessways on Escondido Beach (Exhibit A). The Coastal Conservancy accepted the vertical OTDs at 27900-10 Pacific Coast Highway (PCH) (Chiate/Wildman) in 1982, but the accessway has not been constructed and is closed to the public. The two other vertical accessways at 27398-400 PCH (Geoffrey's Restaurant) and 27420-28 PCH (Shane/Seacliff) have already been built as a condition of the property owners' coastal development permits, but are not open to the public. The vertical accessways are discussed below:

27398-400 Pacific Coast Hwy (Geoffrey's Restaurant, Exhibit C)

Pursuant to a 1978 coastal development permit (#P-2130), the applicants, Stern *et al.*, were required to deed restrict their property to allow the public to use an already-constructed stairway and path for beach access. Instead the applicants elected to record an Offer-to-Dedicate over the same area for acceptance by a management agency in the future.

This accessway is currently being used by adjacent upland property owners. Since this accessway requires beachgoers to go through a restaurant patio to reach the beach, unlike the nearby Shane/Seacliff accessway, it likely will not be heavily used. However, staff recommends that this accessway be accepted since it would be used by restaurant patrons and provide an alternative beach route.

27420-28 Pacific Coast Hwy (Shane/Seacliff, Exhibit D)

This accessway was constructed as a condition of a coastal development permit (#A-184-80) approved in 1980. In consideration for the development authorized under that permit, the homeowners not only offered to build the stairs, they also offered

to create two public parking spaces and to operate and maintain the accessway for no more than 21 years or until a nonprofit or government entity accepted responsibility for the accessway. The homeowners did build the stairway which served as their access to the beach. However, they never opened the accessway to the public and did not build the parking spaces. This case has been the subject of a Coastal Commission enforcement action for many years. Conservancy staff has been working with Coastal Commission staff to resolve this coastal permit violation. The vertical easement recently has been completed and pursuant to a settlement agreement, the homeowners will complete the two off-street parking spots. The Conservancy will accept the parking OTD after it has been constructed.

Parking for the Geoffrey's Restaurant and Shane/Seacliff easements (Exhibit E)

Two off-street parking spots next to the Shane/Seacliff easement entrance will serve both accessways. Since this is a small amount of parking, local residents are concerned that beachgoers will park on the inland side of PCH and cross this high-speed, heavily-trafficked road. However, there is extensive oceanside, on-street parking available. Parking is permitted on the ocean side of Pacific Coast Highway (PCH) adjacent to the eastern edge of the restaurant property. This area would hold approximately 27 cars and is currently used by the restaurant patrons and others. Additional oceanside, on-street parking for approximately 150 cars is available approximately 170 yards upcoast from the Shane/Seacliff easement and 350 yards upcoast from the Geoffrey's restaurant easement (Exhibit E). On this particular stretch of PCH, parking is prohibited immediately adjacent to driveways.

At the present time, people do cross the highway for a variety of reasons. Geoffrey's Restaurant uses both the ocean side and the inland side of PCH as a repository for its valet-parked cars and the valet parkers must occasionally cross the highway. Local residents who do not have beachfront property must cross PCH to reach the beach. Inland residents, unfortunately, will continue to have to make this difficult crossing whether or not these accessways are opened. For beachgoers driving to the site, safe, oceanside parking is available adjacent to or near these accessways. In addition, there are two locations for westbound drivers who drive past the accessways to make U-turns and park on the ocean side.

In other areas of Malibu where beachgoers avoid the oceanside parking lots and park on the inland side of PCH, they do so to avoid paying parking fees. Since the Escondido Beach accessways and the on-street parking are free, beachgoers will not have a monetary incentive to park on the inland side of PCH.

27900-10 Pacific Coast Highway (Chiate/Wildman, Exhibit F)

A vertical OTD at this location was accepted by the Coastal Conservancy in 1982. Acceptance of the parking OTD was authorized but has not been completed due to unauthorized

improvements in the easement area that would need to be relocated before the parking area could be constructed. Conservancy staff is working to resolve this problem and accept the parking OTD. Although the Coastal Conservancy holds \$400,000 in a special deposit account for the construction of the vertical and parking easements, they were never constructed due to the lack of a local management agency. Since the MRCA has offered to manage this accessway (once constructed), Conservancy staff has commenced a construction feasibility analysis and recently completed a topographic map of the easement.

The property owners strongly object to the construction of this accessway and have offered to pay an in-lieu fee for the Conservancy to construct an accessway elsewhere in Malibu. Staff has rejected this option for several reasons. First, the intent of the permit was to mitigate the impacts of development by requiring an Offer-to-Dedicate to provide public access to Escondido Beach, a mile-long, relatively broad beach with extremely limited public access. Providing access to other beaches of Malibu would not fulfill this intent. Secondly, if the Conservancy sold its interest in this easement, it would create a precedent that would encourage property owners all over Malibu to do the same. Finally, going somewhere else outside of Escondido Beach will not make the task of providing access easier. Access to other beaches in Malibu will be equally challenging since many beaches face similar private property, geological, traffic, and parking constraints.

However, staff has agreed to consider a property owners' proposal that would allow alternative access to Escondido Beach: a 13-car parking lot just east of the Escondido Creek public accessway. Staff is considering this alternative because it is consistent with the original intent of the permit which was to provide access to Escondido Beach. The property owners are currently conducting a feasibility analysis. Conservancy staff will review this study, evaluate the relative merit of the alternative, and if acceptable, bring the alternative to the Conservancy Board and the Coastal Commission for approval. If approved, Conservancy staff would then seek to enter into an operations and management agreement with the MRCA for this alternative accessway. If the alternative proves infeasible, the Coastal Conservancy will construct the existing Chiate/Wildman easement and enter into an agreement with the MRCA for management.

The Conservancy has received many letters opposing both the concept of an accessway "trade" and the proposed 13-car parking lot alternative. Other letters have requested that the Conservancy open the Chiate/Wildman easement for public use (Exhibit G). In addition, local residents who attended a public meeting in August in Malibu identified several problems with the 13-car parking lot: it would require massive grading and retaining walls, the area is an active slide, and it would concentrate more beachgoers at an existing accessway that is already heavily used. Conservancy staff would expect the property owners to address these concerns in order to demonstrate that this alternative is feasible and has more

merit than the existing Chiate/Wildman easement. The decision to either construct the existing Chiate/Wildman accessway or accept an alternative will, in any case, be the subject of a future Conservancy staff recommendation.

Project Financing: This project uses no Conservancy funds directly, though a considerable amount of staff time has been, and will be, devoted to completing these access projects. The construction of the two vertical and one of the parking OTDs was or will be completed by the property owners as part of their coastal development permit conditions. The vertical easement owned by the Conservancy will be developed with funds from an account that has been earmarked for this purpose.

Staff anticipates that at least the first five years of the Mountains Recreation and Conservation Authority's operation and maintenance costs will be covered by \$82,000 from the Coastal Commission's Malibu Beach Access Fund, an in-lieu fee assessed on commercial development in Malibu. After the Coastal Conservancy and the Coastal Commission amend their existing Memorandum of Understanding (Exhibit B), these funds will be transferred to the Coastal Conservancy to be administered as part of the management agreement. These funds will cover the direct labor costs of cleaning, repairing, and patrolling these accessway as well as material costs, such as signs, paint, locks, fencing, *etc.* The Mountains Recreation and Conservation Authority will be able to save on some operation costs since they are already managing a parking lot near by on Winding Way. After the five-year period, if there are no longer sufficient funds, the Conservancy and the MRCA have several options. The MRCA could cover the management costs out of its own revenues. The Conservancy could seek another management entity to bear the costs, such as Los Angeles County. The Conservancy and the MRCA could seek additional funds from the Malibu Beach Access Fund and/or use these funds to create a management endowment to cover the long-term costs. Finally, in a worse case scenario, if there were no management entity or funds, the Conservancy could close the accessways.

Site Description: Escondido Beach is immediately east of Point Dume, a promontory that divides the Malibu coast into two nearly equal sections (Exhibit H). This mile-long beach is wide and sandy, with most of the residences located above the beach on the bluffs. The existing accessway at Escondido Creek is the only free public access to the beach for approximately three miles upcoast to Point Dume.

Photographs or slides of the easements described below will be presented at the Conservancy Board meeting.

The accessway at 27390-400 PCH (Geoffrey's Restaurant) runs along the edge of the Geoffrey's restaurant valet parking area, continues past the dining patio, goes down a staircase, across

Escondido Beach road, and finally past two houses to the beach. Since this accessway requires beachgoers to enter near a restaurant, it is not expected to receive extensive public use. However, it does provide more convenient beach access for restaurant patrons and an alternative beach access route.

The accessway offered for public use at 27420-28 PCH (Shane/Seacliff) consists of a stair from PCH that connects to a walkway running the length of the property. The walkway is screened by trees on the eastern side and a high wall along the westerly edge and terminates in a stairway that takes visitors down a steep cliff. The property owners will build a parking area for two cars adjacent to the accessway's entrance on PCH.

The easement at 27450 PCH (Newton-John) provides lateral beach access and is immediately adjacent to the lateral at 27420-28 PCH.

The accessway at 27900-10 PCH (Chiate/Wildman) has yet to be constructed. The future accessway would cross an existing driveway and tennis court (constructed on the Conservancy's easement without authorization), pass between two residences, and go down steep erodible cliffs to the beach. The access easement was required as a condition of a subdivision which created the two long, narrow parcels; both property owners object to the construction of the pathway along the easement. The parking area, located adjacent to PCH, could hold approximately five to eight cars. The design and construction of the path and parking without creating unacceptable environmental impacts will be challenging. Because of the site's physical challenges, staff has agreed to consider alternatives that the property owners have sought in exchange for extinguishing this easement. Although the property owners have actively sought alternatives for the last five years, to date, no suitable alternative has been found (and the 13-car parking lot has yet to be evaluated.) However, given that a management agency is now available for the easement, staff is proceeding with a construction feasibility analysis and will construct the easement unless the property owners present an acceptable alternative.

Project History: Malibu has long been a public access priority for both the Coastal Conservancy and the Coastal Commission. Serving the nearly 10 million inhabitants of Los Angeles County as well as many tourists from all over the world, Malibu is perhaps the most famous section of the California coast. During the past few decades, Malibu has experienced tremendous growth which has increased population and the demand for recreational opportunities. At the same time, the budget constraints of local governments and beachside development have restricted beach access opportunities for the public.

Despite these obstacles, the Conservancy has sought to increase public access to Malibu's beaches. In 1979, the Conservancy provided financial assistance that enabled the California

Department of Parks and Recreation to open to the public three beaches in western Malibu, the Robert H. Meyer Memorial State Beaches.

In 1990, the Conservancy authorized the acceptance of up to \$300,000 from the Coastal Commission's Malibu Beach Access Fund for the operation and maintenance of Malibu accessways and the disbursement of \$50,000 to the Surfrider Foundation for the operation and maintenance of one of the Escondido Beach accessways, 27420-28 PCH (Shane/Seacliff). The Surfrider Foundation subsequently underwent a major reorganization and was not able to assume these responsibilities. Coastal Conservancy staff has continued to search for other management entities over the last five years. Recently, the MRCA has agreed to maintain the accessway at 27420-28 PCH (Shane/Seacliff) in addition to the other accessways along Escondido Beach. \$82,000 from the Coastal Commission's Malibu Beach Access Fund, which includes the \$50,000 that originally was to go to the Surfrider Foundation, will be used to cover management cost.

The Surfrider Foundation remains interested in providing public access in Malibu and continues to work with Conservancy staff in opening other priority Malibu access OTDs outside of Escondido Beach.

Job Creation: This project is not anticipated to have significant job creation opportunities since most of the accessways are already built and the MRCA will use existing staff to operate and maintain the accessways. However, tourism is an important part of Malibu's economy and this project will increase the amount of visitor-serving facilities in Malibu, and thus support, albeit in a modest way, a significant part of Malibu's economy.

PROJECT SUPPORT: This project has been very controversial in the local community and staff has received many letters. These letters can be divided into the following general categories: 1) support for the project, (Exhibit I), 2) opposition to the opening of the accessways, particularly the Geoffrey's Restaurant easement, for a variety of reasons (Exhibit J), and 3) opposition to the Chiate/Wildman property owners' proposed 13-car parking lot alternative and/or requests for opening of the Chiate/Wildman easement (Exhibit G). When appropriate, Conservancy staff has responded to concerns to these letters and the response is attached. In addition, staff attended a public meeting on August 10 in Malibu in order to listen to the local residents' concerns and respond to questions. A letter from staff responding to questions is in Exhibit K.

**CONSISTENCY WITH
CONSERVANCY'S
ENABLING LEGISLATION:**

Public Resources Code Section 31400 provides that it is the policy of the state to guarantee public access and enjoyment of coastal resources. That section also provides that the Conservancy should

have a principal role in implementing a system of public accessways to and along the state's coastline. This project will further those goals by creating new accessways in a heavily-visited region.

In addition, Section 31400.3 of the Public Resources Code states that "the Conservancy may provide such assistance as is required to aid public agencies and nonprofit organizations in establishing a system of public coastal accessways, and related functions necessary to meet the objectives of this division."

Acceptance of the Offers-to-Dedicate Public Access is consistent with Public Resources Code Section 31104.1 which states "the conservancy shall serve as a repository for lands whose reservation is required to meet the policies and objectives of the California Coastal Act." Increasing the amount of beach access is one of the key objectives of the Coastal Act, and the accessways were dedicated because the Coastal Commission found them necessary to make permitted developments consistent with Coastal Act policies and objectives.

**CONSISTENCY WITH
CONSERVANCY'S
PROGRAM GUIDELINES:**

Consistency with Local Coastal Program: Malibu does not have a certified Local Coastal Program at this time. The approved County Land Use Plan, a document used to guide beach planning until the LCP is certified, recognizes Escondido Beach as a priority access area and calls for accessways at every 2,000 feet of beach frontage. At the present time there is a mile between the two existing accessways at Escondido Beach.

Consistency with Access Standards: This project is consistent with all applicable access standards. The accessways are located where they will safely accommodate public use and either are or will be screened and/or fenced to ensure the privacy of adjoining residences (Standard Nos. 1 and 4). The vertical accessways are at least ten feet wide (Standard No. 3). This project also takes advantage of vertical Offers-to-Dedicate in order to increase public access (Standard No. 7).

Urgency: Offers-to-Dedicate expire, for the most part, unless accepted within 21 years after they are dedicated. Considering how difficult it is to secure a management entity for these OTDs, this project is an unique opportunity that should be implemented immediately.

Cost-Effectiveness: These projects are expected to be extremely cost-effective because two of the three accessways have already been constructed and the third has funds from a private party set aside to build it. The MRCA will provide efficient operations and maintenance since it maintains another public facility in the immediate area.

Timely Completion: Operations and maintenance of the accessway will commence immediately after the necessary improvements have been made to the vertical accessways and parking areas and the Coastal Conservancy has taken title to the easements and entered into an agreement with the MRCA regarding operations and maintenance.

Increased Access: This project will open up new areas of the beach that are little used because of their distance from existing public accessways.

**CONSISTENCY WITH
THE COASTAL ACT:**

This project is consistent with the policies and goals of the Coastal Act. Section 30210 of the Coastal Act states that "maximum access . . . shall be provided for all the people." This project will use Offers-to-Dedicate Public Access to provide the maximum access possible to the Escondido Beach area. Because dedications of these easements were required by the Coastal Commission as conditions of permitted development, the project also implements specific findings of the Commission of the need for public access at these locations. In addition, Section 30214(4) says "public access policies . . . shall be implemented in a manner that takes into account . . . the need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter." By entering into a management agreement with the MRCA, the Conservancy will be able to meet these requirements.

**COMPLIANCE
WITH CEQA:**

This project is exempt under 14 California Code of Regulations Section 15301(b) because it will involve only operation and maintenance of existing facilities involving negligible or no expansion of use beyond that previously existing. The vertical easement at 27398-400 PCH (Geoffrey's Restaurant) is not expected to receive extensive additional use since it is less inviting to the public due to proximity of the restaurant dining patio. The main users will be restaurant patrons. Acceptance of this accessway is expected to have negligible expansion of use. The vertical accessway at 27420-28 PCH (Shane/Seacliff) is already opened and the parking area will be constructed and opened to the public pursuant to a coastal development permit condition before the Conservancy accepts this easement. The Conservancy's acceptance of these easements will not increase their use. Construction and opening of the accessway and parking area at 27900-10 PCH (Chiate/Wildman) would be subject to CEQA review and analysis when presented to the Conservancy for authorization.

Certification of Conservancy Documents

I, Elena Eger, certify that I serve as Staff Counsel to the California State Coastal Conservancy, and am the custodian of records for the Conservancy's files pertaining to the litigation entitled Mancuso v. California State Coastal Conservancy, et al., Los Angeles County Superior Court Action No. BS 040197; that the foregoing documents are true and correct copies from the Conservancy's files pertaining to its action of January 23, 1997.

Executed at Oakland, California.

Dated: September 3, 1997



Elena Eger, Staff Counsel
California Coastal Conservancy

DECLARATION OF SERVICE

Case Name: *Mancuso v. Ca. State Coastal Conservancy, et al.*
L.A. Superior Court, Central Dist. No.: BS 040197

I declare:

I am employed in the County of San Diego, California. I am 18 years of age or older and not a party to the within entitled cause; my business address is 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, California 92186-5266.

On September 15, 1997, I served the attached

STATE COASTAL CONSERVANCY, DEPARTMENT OF GENERAL SERVICES AND MOUNTAIN RECREATION AND CONSERVATION AUTHORITY REQUEST FOR JUDICIAL NOTICE PURSUANT TO EVIDENCE CODE SECTION 452(C) OF THE CONSERVANCY'S MINUTES AND ADOPTED STAFF RECOMMENDATION OF JANUARY 23, 1997 AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF


by placing a true copy thereof enclosed in a United Parcel Service Next Day Air sealed envelope thereon fully prepaid at San Diego, California, addressed as follows:

IRELL & MANELLA LLP
Allan J. Abshez, Esq.
Michael S. Lowe, Esq.
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067-4276

Attorneys for Petitioner Frank Mancuso, Sr.

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on September 15, 1997 at San Diego, California.

J. JASON MURRAY


Signature